

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

DARA FRESHLEY,

Plaintiff,

v.

YALE REALTY SERVICES CORP. d/b/a

YALE SMYRNA, LLC; CAPVIEW

INCOME & VALUE FUND IV LP;

KOHL'S, INC. a/k/a KOHL'S

DEPARTMENT STORES, INC.; and

TARGET CORPORATION,

Defendants.

CASE NO.: _____

JUDGE

JURY DEMAND

EXHIBIT 1



**Service of Process
Transmittal**

10/26/2020

CT Log Number 538454878

TO: Sue Carlson
Target Corporation
1000 Nicollet Mall
Minneapolis, MN 55403-2542

RE: Process Served in Tennessee

FOR: Target Corporation (Domestic State: MN)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: DARA FRESHLEY, Pltf. vs. YALE REALTY SERVICES CORP., Dft. // To: Target Corporation

DOCUMENT(S) SERVED: -

COURT/AGENCY: None Specified
Case # 77842

NATURE OF ACTION: Personal Injury - Failure to Maintain Premises in a Safe Condition

ON WHOM PROCESS WAS SERVED: C T Corporation System, Knoxville, TN

DATE AND HOUR OF SERVICE: By Courier on 10/26/2020

JURISDICTION SERVED : Tennessee

APPEARANCE OR ANSWER DUE: None Specified

ATTORNEY(S) / SENDER(S): None Specified

ACTION ITEMS: CT has retained the current log, Retain Date: 10/26/2020, Expected Purge Date: 10/31/2020

Image SOP

Email Notification, Non Employee Litigation Target gl.legal@target.com

SIGNED: C T Corporation System
ADDRESS: 1999 Bryan St Ste 900
Dallas, TX 75201-3140

For Questions: 877-564-7529
MajorAccountTeam2@wolterskluwer.com

Page 1 of 1 / PP

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

Case 3:20-cv-01015 Document 1-1 Filed 11/23/20 Page 3 of 9 PageID #: 7

STATE OF TENNESSEE 16 th JUDICIAL DISTRICT CIRCUIT COURT	<h1 style="margin: 0;">SUMMONS</h1>	<i>Service Copy</i> CASE FILE NUMBER <div style="font-size: 1.5em; margin-top: 10px;">77842</div>
PLAINTIFF DARA FRESHLEY	vs.	DEFENDANT YALE REALTY SERVICES CORP. d/b/a YALE SMYRNA LLC, et al.
TO: (NAME & ADDRESS OF DEFENDANT) <div style="text-align: center; margin-top: 10px;"> Target Corporation c/o CT Corporation System, Registered Agent 300 Montvue Rd Knoxville, TN 37919-5546 (855) 299-4600 </div>		
List each defendant on a separate summons.		
YOU ARE HEREBY SUMMONED TO DEFEND A CIVIL ACTION FILED AGAINST YOU IN CIRCUIT COURT, RUTHERFORD COUNTY, TENNESSEE. YOUR DEFENSE MUST BE MADE WITHIN THIRTY (30) DAYS FROM THE DATE THIS SUMMONS IS SERVED UPON YOU. YOU ARE DIRECTED TO FILE YOUR DEFENSE WITH THE CLERK OF THE COURT AND SEND A COPY TO THE PLAINTIFF'S ATTORNEY AT THE ADDRESS LISTED BELOW. IF YOU FAIL TO DEFEND THIS ACTION BY THE ABOVE DATE, JUDGEMENT BY DEFAULT CAN BE RENDERED AGAINST YOU FOR THE RELIEF SOUGHT IN THE COMPLAINT.		
Attorney for plaintiff: (Name, address & telephone number) <div style="margin-top: 10px;"> D. Russell Thomas 138 South Cannon Avenue Murfreesboro, TN 37129 (615) 848-1818 </div>	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"> DATE ISSUED & ATTESTED <div style="text-align: center; font-size: 1.2em;">10-16-2020</div> </div> <div style="border-bottom: 1px solid black; margin-bottom: 5px;"> MELISSA HARRELL, Circuit Court Clerk </div> <div style="display: flex; justify-content: space-between;"> By: _____ <div style="text-align: right;"> Deputy Clerk </div> </div>	
CERTIFICATION		
I, MELISSA HARRELL, Clerk of the Circuit Court of Rutherford County, Tennessee, do certify this to be true and correct copy of the original summons issued in this cause.		
BY: _____ DEPUTY CLERK		
TO THE SHERIFF: Please execute this summons and make your return within thirty days of issuance as provided by law.	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"> DATE RECEIVED </div> <div style="border-bottom: 1px solid black; margin-bottom: 5px;"> Sheriff </div>	
RETURN ON PERSONAL SERVICE OF SUMMONS		
I hereby certify and return that I served this summons together with the complaint as follows:		
DATE OF PERSONAL SERVICE:	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"> Sheriff </div> <div style="border-bottom: 1px solid black; margin-bottom: 5px;"> BY: </div>	

Submit three copies: service copy, defendant's copy, file copy.

ADA COORDINATOR (615-494-4480)

ACCEPTANCE OF SERVICE

I do hereby accept service of process and a copy of this complaint in this cause for all purposes.
This the _____ day of _____, 20 _____.

RETURN ON SERVICE OF SUMMONS BY MAIL

I hereby certify and return that on the _____ day of _____, 20 _____, I sent, postage prepaid by registered return receipt mail or certified return receipt mail, a certified copy of the summons and a copy of the complaint in case # _____ to the defendant _____, on the _____ day of _____, 20 _____. I received the return receipt, which has been signed by _____ on the _____ day of _____, 20 _____. The return receipt is attached to this original summons to be filed by the Clerk of Court.

Sworn to and subscribed before me this _____ day
of _____, 20 _____.

Signature of plaintiff, plaintiff's attorney or other person
authorized by statute to serve process

My Commission Expires: _____, 20 _____.

NOTICE OF PERSONAL PROPERTY EXEMPTION

TO THE DEFENDANT(S):

Tennessee law provides a ten thousand dollar (\$10,000.00) debtor's equity interest personal property exemption from execution or seizure to satisfy judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. This list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

Mail list to: MELISSA HARRELL, Circuit Court Clerk
Room 106, Judicial Center
116 W. Lytle Street
Murfreesboro, TN 37130

Please state file number on list.

ATTACH
RETURN
RECEIPT
HERE
(IF APPLICABLE)

IN THE CIRCUIT COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO

FILED

DARA FRESHLEY,

Plaintiff,

v.

YALE REALTY SERVICES CORP. d/b/a
YALE SMYRNA LLC; CAPVIEW
INCOME & VALUE FUND IV LP;
KOHL'S, INC. a/k/a KOHL'S
DEPARTMENT STORES, INC.; and
TARGET CORPORATION,

Defendants.

OCT 16 2020

145 O'LOUGH
MELISSA HARRELL
DEPUTY CLERK

CASE NO. 77842
JURY DEMAND

COMPLAINT

COMES NOW the Plaintiff, Dara Freshley, by and through counsel, D. Russell Thomas, who state and show as follows:

1. Plaintiff Dara Freshley is an adult citizen of the United States and a resident of Rutherford County, Tennessee and has been at all relevant times hereto. Plaintiff brings this lawsuit against the Defendants for money damages for the personal injuries sustained by Plaintiff arising out of a premises liability claim which occurred in the parking lot of Target in Smyrna, Tennessee in Rutherford County on or about October 17, 2019. The proper venue of this action is thus in Rutherford County, Tennessee, the location of the accident.

2. The Defendants are as follows:

- (a) Yale Realty Services Corp. d/b/a Yale Smyrna LLC is a privately held real estate investment firm specializing in open air shopping centers. Yale Realty is licensed by the State of Tennessee as a foreign limited liability corporation, formed in the State of Delaware and domiciled in White Plains, New York.

I, _____, County Clerk of Rutherford County, Tennessee, do hereby certify that the foregoing is a correct copy of the instrument filed in the foregoing case in the Circuit Court of Murfreesboro, Tennessee.
This 16 day of October 2020
MELISSA HARRELL

Deputy Clerk

- (b) Capview Income & Value Fund IV LP is a private equity firm focusing on the management of single-tenant, net lease retail properties licensed by the State of Tennessee as a foreign limited partnership formed in the State of Delaware and domiciled in Dallas, Texas;
- (c) Kohl's, Inc. a/k/a Kohl's Department Stores, Inc. is a department store retail chain licensed by the State of Tennessee as a foreign for-profit corporation formed in the State of Delaware and domiciled in Menomonee Falls, Wisconsin; and
- (d) Target Corporation is a general merchandise retailer licensed by the State of Tennessee as a foreign for-profit corporation formed in the State of Minnesota and domiciled in Minneapolis, Minnesota.

3. Plaintiff avers that on October 17, 2019, she pulled up in front of the Target store for the purpose of purchasing items. As she walked behind her car, she stepped into a depression in the asphalt in the parking lot that was deep enough to cause her to lose her balance. She fell, and upon falling, she injured her right shoulder with radiating pains into her neck with headaches all being caused from the fall. She further broke her left pinky finger at the time of the fall, and fractured two ribs on the left side. Her right knee was dislocated on previous occasions, but this fall aggravated that pre-existing knee condition.

4. Plaintiff avers that the Defendants' acts of negligence include but are not limited to the following:

- (a) Defendants failed to maintain the parking lot in such a way that it was safe to walk. There were numerous depressions in the asphalt which were not noticeable until one had a problem of stepping into a depression while walking across the parking lot. The depressions were deep enough that it caused a foreseeable risk of harm that

someone would stumble and lose their balance as the result of stepping into the depressions which were permitted to exist due to a lack of maintenance.

- (b) The Defendants failed to fix the depressions which were a slowly developing problem which existed long enough that the Defendants were on both actual and constructive notice of the depressions and the resulting risk of harm from the many defects in the pavement in the parking lot.
- (c) The case presents a systems failure. Had there been a system in place which would have performed routine inspection and maintenance, Plaintiff's injury would not have occurred. This failure and the other failures set out hereinabove were the direct and proximate causes of Plaintiff's injuries.
- (d) The Defendants failed to warn the Plaintiff of the dangers posed by their lack of maintenance and attention to the surface of the parking lot.

5. Plaintiff avers that the Defendants were directly and/or vicariously liable for the damages arising from the negligent acts and omissions described above in any, several, or all of the ways describe below:

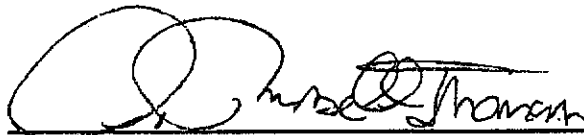
- (a) The Defendants failed to furnish a reasonably safe area for its business invitees, and, thus, the Defendants are responsible for the full extent of her injuries for their failure to maintain their parking lot.
- (b) The Defendants acted in concert with each other in furtherance of a joint business venture for profit and mutual economic benefit, and that each is, therefore, responsible for the harm occurring to Plaintiff. The exact relationship, rights and responsibilities between the parties, will be furnished upon discovery.

- (c) Upon information and belief each of the named Defendants have a property interest in the parking lot of the shopping plaza where Plaintiff was injured, and, therefore, each was negligent in the hiring, retaining, and supervision of those responsible for the repairs of the parking lot.

6. Plaintiff avers that she has pain and suffering which is continuing and a permanent condition. She has lost capacity to earn income which is continuing and a permanent condition. She has loss of enjoyment of life which is continuing and a permanent condition. She has medical expenses which have been incurred and which are ongoing and which will be ongoing for the remainder of her life.

WHEREFORE, Plaintiff requests actual and compensatory damages up to the amount of Two Hundred Thousand and 00/100 Dollars (\$200,000.00) as set by the jury, post-judgment interest once the judgment is awarded, discretionary costs and the clerk's cost, and that a jury of six (6) be empaneled to hear this cause.

Respectfully submitted,



D. Russell Thomas, #6014

Attorney for Plaintiff

THOMAS AND BROWN

138 South Cannon Avenue

Murfreesboro, TN 37129

(615) 848-1818 – Telephone

(615) 217-6023 – Facsimile

russtomas@thethomaslawfirm.com